

**REMARKS**

This Amendment, submitted in reply to the Office Action dated December 28, 2004, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-13 are now all the claims pending in the application.

**I. Preliminary Matters**

As a preliminary matter, Applicant respectfully requests that the Examiner approve the drawings filed August 12, 2004.

**II. Claim Objections**

The Examiner objected to claims 10-11 under 37 C.F.R. § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. However, claims 10 and 11 are directed to a WDM network whereas claims 6 and 7 are directed to an apparatus. Therefore, claims 10 and 11 further limit the subject matter of a previous claim. However, in order to expedite the prosecution for the present application, claims 10 and 11 have been amended as indicated above.

**III. Claim Rejections under 35 U.S.C. § 112**

Claims 1-11 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The claims have been amended as indicated above.

Consequently, the rejection of claims 1-11 under § 112, second paragraph should be withdrawn.

The Examiner states that the last two lines of claims 2 and 7 are unclear. Claim 2 recites “identifying and aligning all the signal frames with the same concatenation byte value compensating for the receiving time t” and claim 7 recites “a circuit for identifying and aligning all the signal frames with the same concatenation byte value compensating for the receiving times t.” This aspect of the claims describes that signal frames are identified and aligned with the same concatenation byte value. This consequently compensates for a receiving time. See for example, page 7, 3<sup>rd</sup> full paragraph of the specification.

#### **IV. Claim Rejections under 35 U.S.C. § 103**

Claims 1-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Turban et al. (U.S. Patent No. 6,678,475) combined with Yellin (U.S. Patent No. 5,727,090).

The Examiner concedes that Turban does not disclose a byte reserved for a concatenation flag and cites Yellin to cure the deficiency. In particular, the Examiner states that Yellin teaches the use of a concatenation flag byte. Therefore, the Examiner asserts that it would have been obvious to one of skill in the art to include or reserve a concatenation flag byte and write the same value in each of the frames in order to differentiate the beginning and end of a frame.

Turbin is directed to a method of transmitting a concatenated signal. In Turbin, at least two component signals on at least two different wavelength are transmitted. Further, the component signals are assigned to the wavelengths for each section between two network

elements in order to minimize delays between component signals. See Turbin claim 1. If the differential delay between the component signals varies widely as to exceed a predetermined value, the assignment of the component signals to the wavelengths will be changed on particular sections by assigning the component signal having the least delay to that wavelength which has the lowest velocity of propagation. See col. 2, lines 54-60.

Therefore, Turbin transmits concatenated signals by changing the assignment of component signals to wavelengths. There is no teaching or suggestion that Turbin should be modified to include a concatenation flag byte. The Examiner's reasoning is clearly a result of impermissible hindsight.

Further, Yellin is directed to a method of storing raster image data. In Yellin, binary raster data includes at least one byte for each pixel run to indicate the color selected from the color palette and the run length. See col. 2, lines 12-15. Each byte in the binary raster data begins with a concatenation bit and this bit is set ON for every byte in a sequence of bytes *except* the last byte. In Fig. 1 of Yellin, a bit stream 100 includes bytes 102, 104 and 106. Concatenation flag byte 108 and 110 are set to ON whereas concatenation flag byte 106 is set to OFF. See col. 4, lines 41-52.

Based on the foregoing, it is apparent that Yellin does not disclose "writing *a same value* defined in advance into the n-frame concatenation byte" as recited in claim 1. In particular, a same value is not defined in the concatenation bytes of Yellin since a last byte of binary raster data must be different from previous bytes.

Therefore, assuming *arguendo* Turbin could be combined with Yellin, the combination fails to teach the claimed elements.

For at least the above reasons, claim 1 and its dependent claims should be deemed allowable. To the extent claims 2, 6 and 7 recite similar elements, claims 2, 6 and 7 and their dependent claims should be deemed allowable for the same reasons.

#### **V. New Claims**

Applicant has added claim 12 and 13 to provide a more varied scope of protection. Claims 12 and 13 should be deemed patentable by virtue of their dependency to claim 1 for the reasons set forth above. Newly added claim 13 recites that “each frame is received on a same channel number assigned at the transmission side.” However, Turbin discloses changing the assignment of the component signals to the wavelengths before transmission if at least one measured differential delay exceeds a predetermined threshold. See col. 2, lines 29-32. Consequently, claim 13 should further be deemed allowable.

#### **VI. Conclusion**

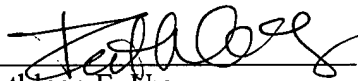
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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